Credit Union National Association
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February 10, 2021

Ms. Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: Chartering and Field of Membership— Shared Facility Requirements; RIN 3133–AF23

Dear Ms. Conyers-Ausbrooks:

On behalf of America's credit unions, I am writing to the National Credit Union Administration (NCUA) in support of the proposed rulemaking on Chartering and Field of Membership— Shared Facility Requirements. The Credit Union National Association (CUNA) represents America's credit unions and their 120 million members.

We appreciate the work the NCUA has undertaken over the last several years to expand field of membership opportunities for Federal credit unions. Today, the archaic field of membership restrictions to which credit unions are subject are antithetical to the goal of financial inclusion and economic equity, and they impede credit unions more fully fulfilling their statutory mission to promote thrift and provide access to credit for provident purposes. We have urged Congress to relax or eliminate these restrictions, and the Supreme Court has sent a clear message to the agency that there is much more that the NCUA can do to open up access to credit unions for all.[1] This proposal represents a very small, but nonetheless important, step toward a more inclusive approach to credit union membership.

CUNA strongly supports this proposal as it would help credit unions deliver necessary financial services to Americans. The proposed rule would make common sense changes to service facility requirements and reduces regulatory burden and confusion by harmonizing requirements for multiple common bond (MCB) credit unions for group and underserved area additions. Nonetheless, the time has come for the NCUA Board to look to the future and redefine "service facility" by eliminating the definition's focus on physical location and moving to an emphasis based on the delivery of financial services that meets the needs of the group or underserved area an MCB seeks to add to its field of membership. Thus, CUNA strongly encourages the NCUA Board to include

[1] Am. Bankers Ass'n v. NCUA, 443 U.S. App. D.C. 116, 934 F.3d 649 (2019), rehearing denied by, En banc Am. Bankers Ass'n v. NCUA, Nos. 18-5154, 18-5181, 2019 U.S. App. LEXIS 36872 (D.C. Cir. Dec. 12, 2019), U.S. Supreme Court cert. denied by Am. Bankers Ass'n v. NCUA, 141 S. Ct. 160 (2020).

transactional websites and mobile banking applications in the definition of service facilities as is contemplated but not proposed in the proposed rule.

Proposed Changes to the Definition of Service Facility

CUNA fully supports the proposed changes to the definition of service facility for MCBs as they harmonize two separate definitions for service facility used for the addition of a group or underserved area. The Board details the historical reasons for the separate definitions, which have long outlasted their justification. The proposed rule would make a very modest change to the definition of service facility for new groups added by eliminating the requirement that a credit union have an ownership interest in a shared branch network used to meet the service facility requirements.[2] This is a logical change since there is no difference in services offered by a shared branch partially owned by a credit union or a shared branch not owned by a credit union.

The Board proposes a slightly more comprehensive change to the service facility definition for adding an underserved area. The current requirement is more restrictive than for groups added by not allowing ATMs or video teller machines to be used as a service facility. The proposed rule would add ATMs, video tellers and shared branches where the credit union does not have an ownership interest to the definition of service facility for underserved areas, and thus harmonizes the definition for group and underserved areas for MCBs.

These minor rule changes reduce regulatory burden by simplifying requirements while adding necessary flexibility needed for credit unions to serve underserved areas. Allowing credit unions the option to electronically provide services to members in underserved areas through electronic means has become especially important during the COVID-19 pandemic.

New Additions to Service Facility

The COVID-19 pandemic has been a terrible crisis for many Americans, causing financial hardship for individuals and businesses alike. The degree of hardship for businesses was greatly impacted by either a drop in demand due to restrictions or inability to deliver services or products due to restrictions. The delivery of financial services is unique in that it can be conducted in person or remotely with little impact on the products or services offered. Obviously, during the pandemic credit unions have seen a decrease in branch demand because of mandatory closures and credit union members choosing to conduct business with credit unions remotely instead of putting themselves in harms to way to venture into a public building.

During the pandemic, credit unions demonstrated their ability to provide necessary financial services to members remotely through electronic means. Even with branches closed or access limited, credit unions delivered all necessary financial services through telephone, online, ATM and other means of access that do not require face-to-face contact or even a physical facility. This flexibility clearly demonstrates that credit unions are well-situated to meet consumers' needs for access that the pandemic, as the Board rightly emphasizes in the proposed rule, has accelerated to online banking on mobile applications. The pandemic has established that transactional websites and mobile banking applications are a critical, and possibly the most, important means of delivering financial services making appropriate to include them in the definition of service facilities, because credit unions are already successfully using them as service facilities.

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[2] We note that credit union- owned branches, mobile branches, offices operated on a regularly scheduled weekly basis, video teller machines, ATMs and shared branches where the credit union has an ownership interest in the shared branch network meet the criteria for service facility for group additions.

Admittedly, access to smartphones and connected computers is not universal, which can be a limiting factor for providing services to some consumers. Obviously, where access to online banking and mobile applications is limited, credit unions will need to reach members by other means. Fortunately, smartphone ownership continues to increase among all Americans making electronic access for all Americans more available every year.

Some credit union critics will claim that credit union members in underserved communities rely on, value and expect individualized communications and conversation with credit union staff who can respond to their specific needs. We realize that there will be a contingent of consumers who prefer individualized communications and conversations with credit union staff who can respond to specific needs for even the simplest of transactions, while others will never enter a branch even when living close to one. Preference of delivery channel for financial services and availability of financial services are distinct issues. NCUA's service facility requirements mandate availability, and not preference, and should not consider one method of providing services superior to another.

Maintaining "brick and mortar" facilities when not demanded or necessary to deliver financial services adds expense and restricts the services that credit unions can provide. Allowing credit unions the ability to reach new members with services optimized for them is the future. Decoupling the service facility requirement from a physical presence is a necessary step in allowing credit unions to reach more Americans to provide them with necessary financial services. It is the NCUA Board's duty to ensure that Americans are not denied financial services because of outdated requirements and philosophies based on quaint ideas of what some believe consumers prefer.

CUNA believes that it is paramount that the Board include transactional websites and mobile banking applications in the definition of service facilities in a final Chartering and Field of Membership rule.

Conclusion

We are aware that the American Bankers Association has astro-turfed the agency with form letters opposing this proposal and more inclusive access to credit unions more broadly. Their opposition to this proposal is disappointing but not surprising and stands in stark contrast with their words promoting financial inclusion and equity in the banking sector. Credit union membership should be available to all. The NCUA should approve this proposal and continue to look for ways to expand access to credit unions for all.

If you have any questions about our comments, please do not hesitate to contact me at (202) 508-6750.

Sincerely,

Ryan Donovan
Chief Advocacy Officer